

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN SENATE JULY 13, 2009

AMENDED IN SENATE JUNE 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1366

**Introduced by Assembly Members Feuer, Caballero, and
Audra Strickland
(Coauthors: Assembly Members John A. Perez and Salas)**

February 27, 2009

An act to add Section 13148 to the Water Code, relating to water softeners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as amended, Feuer. Residential self-regenerating water softeners.

Existing law requires the State Water Resources Control Board to formulate and adopt state policy for water quality control. California regional water quality control boards are required to establish water quality objectives in water quality control plans. Under existing law, a local agency, by ordinance, may limit the availability, or prohibit the installation, of residential water softening or conditioning appliances that discharge to the community sewer system if the local agency makes certain findings and includes them in the ordinance.

This bill would authorize any local agency that owns or operates a community sewer system or water recycling facility, within specified areas of the state, to take action, by ordinance; *or resolution, after a public hearing on the matter*, to control salinity inputs from residential self-regenerating water softeners to protect the quality of the waters of

the state, if the appropriate regional board makes a finding that the control of residential salinity input will contribute to the achievement of water quality objectives. The bill would state related findings and declarations of the Legislature, including findings and declarations concerning the need for special legislation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Recycled water provides additional water supplies that are
- 4 a cost-effective and reliable method of helping to meet California’s
- 5 water needs.
- 6 (b) The Water Recycling Act of 1991 established a statewide
- 7 goal to recycle a total of 700,000 acre-feet of water per year by
- 8 2000, and one million acre-feet of water per year by 2010.
- 9 (c) The 2005 California Water Plan indicates that the statewide
- 10 potential for recycled water use by 2030 is between 900,000
- 11 acre-feet to 1.4 million acre-feet per year. Based on this projection,
- 12 the state will fall far short of the goal of recycling one million
- 13 acre-feet per year by 2010, unless new policies are enacted to
- 14 accelerate recycled water use.
- 15 (d) Elevated levels of salinity in community sewer systems can
- 16 hinder needed water recycling projects, and discharges from those
- 17 systems may impair groundwater resources and surface waters of
- 18 the state.
- 19 (e) The State Water Resources Control Board’s Recycled Water
- 20 Policy is intended to support an increase in the use of recycled
- 21 water from municipal wastewater sources in a manner that
- 22 implements state and federal water quality laws. Some groundwater
- 23 basins in the state contain salts and nutrients that exceed or threaten
- 24 to exceed water quality objectives established in the applicable
- 25 water quality control plans. The policy requires every groundwater
- 26 basin or subbasin to have a salt and nutrient management plan that
- 27 includes adequate implementation procedures for achieving or
- 28 ensuring compliance with the water quality objectives for salt or
- 29 nutrients.

1 (f) Existing law allows regulation of discharges from industrial,
2 commercial, and agricultural sources, but severely limits local
3 ~~public~~ agencies from regulating salinity discharges from residential
4 self-regenerating water softeners, which can discharge up to one
5 pound of salt per day.

6 (g) The California Water Recycling Task Force Report of 2003,
7 prepared by the Department of Water Resources and the State
8 Water Resources Control Board, recommends that current law be
9 changed to allow local ~~public~~ agencies more control over salinity
10 from residential self-regenerating water softeners.

11 (h) It is the intent of the Legislature to require local ~~public~~
12 agencies to consider local economic issues and other community
13 input before taking action to regulate residential self-regenerating
14 water softeners.

15 (i) It is the intent of the Legislature, by enacting this act, to give
16 local ~~public~~ agencies additional authority to regulate residential
17 self-regenerating water softeners, especially in areas of the state
18 with water bodies adversely impacted by salinity and high use
19 groundwater basins that are hydrogeologically vulnerable to
20 contamination.

21 SEC. 2. Section 13148 is added to the Water Code, to read:

22 13148. (a) This section applies to the following hydrologic
23 regions as identified in the California Water Plan: Central Coast,
24 South Coast, San Joaquin River, Tulare Lake, and the Counties of
25 Butte, Glenn, Placer, Sacramento, Solano, Sutter, and Yolo.

26 (b) Notwithstanding Article 1 (commencing with Section
27 116775) of Chapter 5 of Part 12 of Division 104 of the Health ~~and~~
28 ~~Safety and Safety~~ Code, any local agency that owns or operates a
29 community sewer system or water recycling facility *and* that is
30 subject to a finding made by a regional board pursuant to
31 subdivision (e) may take action to control salinity input from
32 residential self-regenerating water softeners to protect the quality
33 of the waters of the state. *A local agency may take action only by*
34 *adoption of an ordinance or resolution after a public hearing. The*
35 *local agency shall not consider the adoption of an ordinance or*
36 *resolution until at least 30 days following the date of the public*
37 *hearing on the proposed ordinance or resolution. An ordinance*
38 *or resolution shall become effective 30 days from the date of*
39 *adoption. For purposes of this section, a local agency shall act by*
40 ~~ordinance. Absent the authority of a local agency to adopt~~

1 ~~ordinances pursuant to its principal act or governing statute, the~~
 2 ~~local agency shall adopt an ordinance in accordance with Article~~
 3 ~~7 (commencing with Section 25120) of Chapter 1 of Part 2 of~~
 4 ~~Division 2 of Title 3 of the Government Code.~~

5 (c) Actions to control residential self-regenerating water softener
 6 salinity inputs authorized by subdivision (b) include, but are not
 7 limited to, ~~actions to do~~ any of the following:

8 (1) Require that residential self-regenerating water softeners
 9 ~~sold~~ *installed* within the jurisdiction of the local agency be rated
 10 at the highest efficiency commercially available.

11 (2) Require that plumbing permits be obtained prior to the
 12 installation of residential self-regenerating water softeners.

13 (3) Require that residential self-regenerating water softeners be
 14 plumbed to hook up to hot water only.

15 (4) Require that potassium chloride be used in residential
 16 self-regenerating water softeners instead of sodium chloride, if
 17 water quality conditions warrant.

18 (5) Enact a voluntary buy-back program for the removal of
 19 existing residential self-regenerating water softeners, consistent
 20 with existing law. A voluntary buy-back program may be
 21 conducted in cooperation with local water treatment businesses.

22 (6) Require the removal of previously installed residential
 23 self-regenerating water softeners.

24 (7) Prohibit the installation of residential self-regenerating water
 25 softeners.

26 (8) Require the retrofit of clock control and demand control
 27 systems on previously installed residential self-regenerating water
 28 softeners.

29 (9) Require the replacement of previously installed residential
 30 self-regenerating water softeners with appliances that meet or
 31 exceed the salt efficiency rating set forth in paragraph (2) of
 32 subdivision (b) of Section 116785 of the Health and Safety Code.

33 (d) If a local agency adopts an ordinance *or resolution* to require
 34 the removal of previously installed residential self-regenerating
 35 water softeners pursuant to paragraph (6) of subdivision (c), the
 36 local agency shall make available to owners of residential
 37 self-regenerating water softeners within its service area a program
 38 to compensate the owner of the residential self-regenerating water
 39 softener for the reasonable value of the removed residential
 40 self-regenerating water softener, as determined by the local agency.

1 (e) Before a local agency may take action to control salinity
2 input from residential self-regenerating water softeners pursuant
3 to subdivision (b), a regional board with jurisdiction over a region
4 identified in subdivision (a) shall have made a finding at a public
5 hearing that the control of residential salinity input will contribute
6 to the achievement of water quality objectives. The finding may
7 be made in any of the following water quality actions adopted by
8 a regional board:

9 (1) A total ~~daily maximum~~ *maximum daily* load that addresses
10 salinity-related pollutants in a water segment.

11 (2) A salt and nutrient management plan for a groundwater basin
12 or subbasin.

13 (3) Waste discharge requirements for a local agency discharger.

14 (4) Master reclamation permit for a supplier or distributor of
15 recycled water.

16 (5) Water recycling requirements for a supplier or distributor
17 of recycled water.

18 (6) Cease and desist order directed to a local agency.

19 (f) The regional board making a finding pursuant to subdivision
20 (e) shall base its finding on the evidence in the record. The standard
21 of judicial review required for a finding made pursuant to
22 subdivision (e) shall be the same as the standard of review required
23 for the water quality action in which the finding is made.

24 (g) This section does not limit the use of portable exchange
25 water softening appliances or limit the authority of a local ~~public~~
26 agency to regulate the discharge from a centralized portable
27 exchange tank servicing facility into the community sewer system.

28 (h) For purposes of this section, “residential self-regenerating
29 water softener” means residential water softening equipment or
30 conditioning appliances that discharge brine into a community
31 sewer system.

32 SEC. 3. The Legislature finds and declares that it is necessary
33 to address elevated levels of salinity in community sewer systems
34 in specified hydrologic regions of the state. It is therefore hereby
35 declared that a general law within the meaning of Section 16 of
36 Article IV of the California Constitution cannot be made applicable
37 to those specified hydrologic regions and the enactment of this
38 special law is necessary for the public good.

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